

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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**BRENT RAY BREWER,**

Petitioner,

v.

**LORIE DAVIS,**

Director, Criminal Institutions Division,  
Texas Department of Criminal Justice.

Respondent.

: CIVIL ACTION  
No. 2:15-CV-50-D

: **THIS IS A CAPITAL CASE**

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**MOTION FOR LEAVE TO FILE SECOND AMENDED FEDERAL HABEAS CORPUS  
PETITION PURSUANT TO THIS COURT'S PRIOR ORDER AND INCORPORATED  
BRIEF IN SUPPORT**

Petitioner Brent Brewer, through undersigned counsel, seeks leave to file the second amended petition for writ of habeas corpus previously ordered to be filed in this matter and in support states:

Pending before the Court is Mr. Brewer's Amended Petition for Writ of Habeas Corpus by a Prisoner in State Custody Pursuant to 28 U.S.C. § 2254 et seq. *See* Doc. 31 (Am. Pet.); Doc. 40 (Answer); Doc. 48 (Reply); Doc. 49 (Supplement); Doc. 52 (Supp. Answer); Doc. 94 (Petitioner's Renewed Motion for Evidentiary Hearing and Discovery); and Doc. 97 (Respondent's Response to Renewed Motion for Discovery and Evidentiary Hearing).

In its Order of December 19, 2019, this Court ordered that Petitioner shall file "his second amended federal habeas corpus petition in this cause" on or before March 3, 2020. *See* Doc. 93 (Order), at ¶ 2. Regrettably, undersigned counsel missed this instruction and thus missed the March 3, 2020, filing date set by the Court.

With apologies to the Court, undersigned counsel seek leave to file Petitioner's second amended habeas corpus petition on the same date of his Reply to the Respondent's Response to Petitioner's Motion for Evidentiary Hearing and Discovery (Doc. 97), which is March 30, 2020.

As evidenced by Petitioner's renewed motion for an evidentiary hearing and discovery (Doc. 94) which was filed on January 9, 2020, undersigned counsel acted expeditiously to move this case forward and apologizes for any inconvenience to this Court caused by counsel's inadvertent mistake.

Petitioner respectfully proposes to combine his three prior filings, Doc. 31 (Amended Petition), Doc. 49 (Supplement), and Doc. 56 (Supplement) and will update the procedural section to reflect the state court's recent denial of Petitioner's state court habeas application. Factually, the claims remain the same and there is no prejudice to the State by this proposal.

If the Court decides not to allow Petitioner leave to amend, going forward, he will rely upon the arguments and factual development detailed in these three filings, as well as the witness declarations, expert reports and the other exhibits that were filed in support.

Wherefore, Petitioner requests that this Court grant his Motion for Leave to File Seconded Amended Petition for Writ of Habeas Corpus on or before March 30, 2020.

Respectfully submitted,

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March 23, 2020

/s/ Peter Walker  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that I have conferred with counsel for Respondent, Assistant Attorney General Erich Dryden, who indicated his office takes no position on this motion.

/s/ Peter Walker  
Peter Walker

Dated: March 23, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I served the foregoing motion on the following by operation of the electronic case filing system:

Erich Dryden  
Assistant Attorney General  
Office of the Attorney General of Texas  
Post Office Box 12548  
Austin, Texas 78711-2548

/s/ Peter Walker  
Peter Walker

March 23, 2020